

Before the State of South Carolina
Department of Insurance

In the matter of:)	Consent Order
)	Imposing Administrative Fine
Lois A. Smith,)	
)	Investigation File Number
Route 5, Box 650)	101293
Manning, South Carolina 29102)	
)	

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Lois A. Smith, a licensed State of South Carolina resident insurance agent.

Smith hereby admits, and I find as fact, that, while licensed by the Department to do business as a resident insurance agent within the State of South Carolina, Smith demonstrated incompetency and untrustworthiness in the conduct of her affairs as a licensed insurance agent. On December 20, 1997, Smith wrote two life insurance applications with Philadelphia Life Insurance Company. Thereafter, on five separate occasions, covering a period of seven months, the insurer sent written notice to Smith requesting she furnish specific documentation required to evaluate the proposed insured's insurability. Approximately five months after the first written request, Smith dismissed herself as agent and ignored the insurer's request for documentation. Consequently, the insurer never received the requested material and in August 1998 the insurer denied the proposed insured's request for insurance. This action is a violation of S.C. Code Ann. Section 38-43-130 (Supp. 1999) and can ultimately lead to revocation of her license to transact the business of insurance as a resident insurance agent in South Carolina following a public hearing at the Administrative Law Judge Division.

Rather than proceeding toward a formal public hearing, the parties agreed to submit the entire matter to me, along with the specific recommendation, for my summary decision based solely on the record. That recommendation was that Smith would waive her right to a public hearing and pay a negotiated and consensual administrative fine of \$2,000 and agree to take six hours of continuing insurance education beyond that required by S.C. Code Ann. Section 38-43-106, to be completed within 90 days of the date of this order.

S.C. Code Ann. Section 38-43-130 provides, "The director or his designee may revoke or suspend an agent's license after ten days' notice or refuse to reissue a license when it appears that an agent has been convicted of a crime of moral turpitude, has violated this title or a regulation promulgated by the Department, or has wilfully deceived or dealt unjustly with the citizens of this State."

LA S Lois A. Smith

After a thorough review of the record, carefully considering the recommendation of the parties, and in accordance with my findings of fact, I now conclude, as a matter of law, that Smith has violated the law governing licensed agents, and although I can revoke Smith's insurance agent's license, I hereby impose an administrative fine of \$2000 pursuant to the authority provided to me by the State of South Carolina General Assembly in S.C. Code Section 38-2-10 (Supp. 1999). This administrative fine must be paid within ten days of my date and signature upon this Consent Order Imposing Administrative Fine. I also require Smith to undergo six additional hours of continuing insurance education courses beyond the statutory requirement of S.C. Code Ann. § 38-43-106 (Supp. 1999) within 90 days of the date of this order. These additional hours will not be eligible for the carry-over pursuant to S.C. Code Ann. § 38-43-106 (Supp. 1999). Smith must provide to the Department the original certificates of attendance proving her completion of this requirement within 90 days of the date of this order. These hours may not be fulfilled via correspondence courses. If that total amount is not timely paid, or if Smith does not provide the required proof of her timely having taken the additional continuing insurance education courses, her insurance agent's license to transact business as a resident insurance agent within the State of South Carolina will be summarily revoked without any further administrative disciplinary proceedings.

This administrative fine has been reached by the parties as a result of negotiation and compromise and in consideration of Smith's assurance that in the future she will demonstrate diligence and competency in the conduct of her affairs as a licensed State of South Carolina insurance agent.

By her signature upon this consent order, Smith acknowledges that she understands this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 1999).

Nothing contained in this administrative disciplinary order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained in this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained in this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (4) (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is therefore, ordered that Lois A. Smith shall pay through the State of South Carolina Department of Insurance, an administrative fine in the total amount of \$2000.

It is further ordered that a copy of this consent order shall be transmitted to the National Association of Insurance Commissioners for distribution to its member states and to each insurer for which Lois A. Smith is currently licensed to transact business as a resident insurance agent within the State of South Carolina.

LAS Lois A. Smith

This consent order becomes effective as of the date of my signature below.

Lois A. Smith

Ernst N. Csiszar

Ernst N. Csiszar
Director

July 27, 2000 at
Columbia, South Carolina

I Consent:

Lois A. Smith
Route 5, Box 650
Manning, South Carolina 29104

Dated this 7th day of April, 2000

LAS Lois A. Smith